
STATUTORY INSTRUMENTS

2005 No. 641

**The National Health Service
(Pharmaceutical Services) Regulations 2005**

PART 4

Payments to chemists

Standards of, and payments for, drugs and appliances

56.—(1) For the purpose of enabling arrangements to be made for the provision of pharmaceutical services, the Secretary of State shall compile and publish a statement (in these Regulations referred to as “the Drug Tariff”) which he may amend from time to time and which, subject to paragraph (2), shall include—

- (a) the list of appliances for the time being approved by the Secretary of State for the purposes of section 41 (arrangements for pharmaceutical services) of the Act and, in the case of a restricted availability appliance, the categories of persons for whom or purposes for which the appliance is approved;
- (b) the list of chemical reagents for the time being approved by the Secretary of State for the purposes of section 41 of the Act;
- (c) the list of drugs for the time being approved by the Secretary of State for the purposes of section 41 of the Act;
- (d) the prices on the basis of which the payment for drugs and appliances ordinarily supplied is to be calculated;
- (e) the method of calculating the payment for drugs not mentioned in the Drug Tariff;
- (f) the method of calculating the payment for containers and medicine measures;
- (g) the dispensing or other fees or allowances payable in respect of the provision of pharmaceutical services;
- (h) the dispensing or other fees or allowances payable in respect of the temporary provision of pharmaceutical services under regulation 54;
- (i) arrangements for claiming fees, allowances and other remuneration for the provision of pharmaceutical services; and
- (j) the method by which a claim may be made for compensation for financial loss in respect of oxygen equipment specified in the Drug Tariff.

(2) The Drug Tariff may state in respect of any specified fee or allowance falling within paragraph (1)(g) or (h), or any other specified fee, allowance or other remuneration in respect of the provision of pharmaceutical services by chemists included in the pharmaceutical list of a Primary Care Trust, that the determining authority for that fee, allowance or other remuneration for those chemists is the Primary Care Trust, and in such a case paragraphs (5) and (6) shall apply.

(3) The prices referred to in paragraph (1)(d) may be fixed prices or may be subjected to monthly or other periodical variations to be determined by reference to fluctuations in the cost of drugs and appliances.

(4) A chemist shall supply, in response to a request from the Secretary of State, within 30 days of the notification of the request, any information which the Secretary of State may require for the purpose of conducting any inquiry into the prices, payments, fees, allowances and remuneration specified in paragraph (1)(d) to (i).

(5) The Primary Care Trust shall consult the Local Pharmaceutical Committee before making any determination by virtue of paragraph (2).

(6) A determination made by the Primary Care Trust by virtue of paragraph (2) shall include the arrangements for claiming the specified fees, allowances or other remuneration, and shall be published by the Primary Care Trust in whatever way it thinks suitable for bringing that determination to the attention of the chemists included in its pharmaceutical list.

Claims and overpayments

57.—(1) Any claim for fees, allowances or other remuneration by chemists or doctors shall be made in accordance with the provisions of the Drug Tariff or, as the case may be, in accordance with any arrangements for claiming them included in a determination made by the Primary Care Trust by virtue of regulation 56(2).

(2) Where it considers that a payment has been made to a chemist or doctor in circumstances when it was not due, the Primary Care Trust, except to the extent that the Secretary of State, on the application of the Primary Care Trust, directs otherwise, shall draw the overpayment to the attention of the chemist or the doctor, and—

- (a) where the overpayment is admitted by him; or
- (b) where, in the case of a chemist, the overpayment is not so admitted but, the matter having been referred under regulation 5(1) of the National Health Service (Service Committees and Tribunal) Regulations 1992(1) for investigation, the Primary Care Trust, or the Secretary of State on appeal under regulation 9(1)(c) of those Regulations, decides that there has been an overpayment,

the amount overpaid shall, subject to any determination of the Secretary of State pursuant to regulation 11(1) of the National Health Service (Service Committees and Tribunal) Regulations 1992(2), be recoverable, either by deduction from the remuneration of the doctor or chemist or in some other manner.

(3) Recovery of an overpayment under this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

Payments to suspended chemists

58.—(1) The Primary Care Trust shall make payments to any chemist who is suspended in accordance with the Secretary of State's determination in relation to such payments.

(2) The Secretary of State shall make the determination in accordance with paragraph (3) after consultation with such organisations as he may recognise as representing chemists with whom arrangements for the provision of pharmaceutical services exist, and it shall be published with the Drug Tariff.

(1) [S.I. 1992/664](#). Regulation 5 has been amended by [S.I. 1996/703](#), [2002/2469](#) and [2004/865](#).

(2) Regulation 11 has been amended by [S.I. 1996/703](#), [2002/2469](#) and [2004/865](#).

(3) The determination may be amended from time to time by the Secretary of State after consultation with the organisations referred to in paragraph (2), and any amendments shall also be published in the Drug Tariff.

(4) The Secretary of State's determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specified period.

Reward Scheme

59.—(1) A chemist who is presented with, or receives, an order under paragraph 5(2) or (3) of Schedule 1 or paragraph 4(2) of Schedule 3 shall be eligible to claim a payment from the Primary Care Trust in such manner as is specified in the Drug Tariff if—

- (a) in accordance with paragraph 9 of Schedule 1 or paragraph 7 of Schedule 3 he refused to provide the drugs or listed appliances ordered and informed the Primary Care Trust of this action as soon as practicable; or
- (b) he provided the drugs or listed appliances pursuant to paragraph 5(2) or (3) of Schedule 1 or paragraph 4(2) of Schedule 3 but had reason to believe at that time or subsequently came to have reason to believe that the order was not a genuine order for the person named on the prescription form or repeatable prescription and informed the Primary Care Trust of this belief as soon as practicable,

and in either case he has sent the order referred to in this paragraph (or, in the case of an electronic prescription, details of it) to the Primary Care Trust, and the Primary Care Trust has established that the order referred to in this paragraph was not a genuine order for the person named on the prescription form or repeatable prescription.

(2) The Primary Care Trust shall in respect of any claim under paragraph (1) make such payment as is due to the chemist calculated in the manner specified in the Drug Tariff.

(3) In this paragraph “order” includes a purported order.